IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

CRP.No. 2595 of 1991(E)

SM.1/1990 of TALUK LAND BOARD, OTTAPALAM
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REVN. PETITIONER:

STATE OF KERALA.

BY SENIOR GOVERNMENT PLEADER
SRI. V.T.K. MOHANAN.

RESPONDENTS:
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1. **P.C. SANKARA MENON, PULLANOOR, CHOORALIL, NADUVATTOM, VILAYUR P.O. OTTAPPALAM, PALAKKAD.**

2. **PAREKAT MUHAMMED, S/O PAREKAT YAVU, NADUVATTOM, THIRUVEGAPURA, VILAYUR P.O. OTTAPPALAM, PALAKKAD.**

3. **PAREKAT SAIDALAVI, S/O PAREKAT YAVU, NADUVATTOM, THIRUVEGAPURA, VILAYUR P.O. OTTAPPALAM, PALAKKAD.**

4. **PATHUMMA, D/O PAREKAT YAVU, NADUVATTOM, THIRUVEGAPURA, VILAYUR P.O. OTTAPPALAM, PALAKKAD.**

5. **ALIYAMU, S/O PAREKAT YAVU, NADUVATTOM, THIRUVEGAPURA, VILAYUR P.O. OTTAPPALAM, PALAKKAD.**

6. NARAYANI @ MALU AMMA, MANADATH,
NADUVATTAM P.O.
THIRUVEGAPURA,
VILAYUR P.O. OTTAPPALAM,
PALAKKAD.

7. VASUDEVA MENON, MANADATH,
NADUVATTAM, THIRUVEGAPURA,
VILAYUR P.O. OTTAPPALAM,
PALAKKAD.

8. P.K. DEVAKI AMMA, PULLANOOR,
KONNATH, NADUVATTAM, THIRUVEGAPURA,
VILAYUR P.O. OTTAPPALAM,
PALAKKAD.

9. JAGADEESAN, MANADATH,
NADUVATTAM,
VILAYUR P.O. OTTAPPALAM,
PALAKKAD.

10. PATHUMMA, W/O CHERUPURATH ALAVI,
NADUVATTAM P.O.
OTTAPPALAM,
PALAKKAD.

11. PANNIPARAMBIL MADAMBI, NADUVATTAM P.O.
OTTAPPALAM,
PALAKKAD.

12. KUNHILAKSHMI AMMA, W/O P.K. PARAMESWARA
MENON, PULLANOOR, KONNATH, KAIPURAM,
THIRUVEGAPURA.

13. NARANATH PARAMBIL KUNHUMOHAMMED,
NADUVATTOM P.O. OTTAPPALAM,
PALAKKAD.

14. PATHUMMA, W/O NARANATH PARAMBIL KUNHUMOHAMMED,
NADUVATTOM P.O. OTTAPPALAM,
PALAKKAD.
(DIED)

15. SUBHADRAMMA, W/O SIVASANKARA MENON,
PALLARE HOUSE, NADUVATTAM,
OTTAPPALAM, PALAKKAD.

ADDL: RESPONDENTS 16 TO 19 ARE IMPLEADED:

16: KUNHYMOHAMMED, S/0 LATE ALIYUMMA,
NARANATH PARAMBIL KUNHUMOHAMMED,
P.O. KEEZHMURI VIA. PULASSERY, KOPPAM VILLAGE.

17: NAFEESA, W/O POONOTHU ABU,
P.O. PULASSERY, KOPPAM VILLAGE.

18. PATHUMMAKUTTY, W/O KUNNUMPURATH SAIDALAVI, P.O. THIRUVENGAPURA VILLAGE.

19. ABBAS, S/O NARANATH PARAMBIL KUNHUMOHAMMED, P.O. KEEZHMURI VIA. PULASSERY, KOPPAM VILLAGE.

ADDL. RESPONDENTS 16 TO 19 ARE IMPLEADED AS LEGAL REPRESENTATIVES OF THE DECEASED 14TH RESPONDENT AS PER ORDER DATED 16.6.99 IN CMP 2328/99.

ADDL.R20: SAIDALAVI, S/O ALIYAMMU, AGED 47, PAREKKAT HOUSE. NADUVATTOM, THIRUVEGAPPURA VILLAGE, OTTAPPALAM TALUK, PALAKKAD DISTRICT.

R21: PATHUMMA, W/O MAMMIKUTTY, PATTIKKARA VALAPPIL, KODANAD P.O., MEZHATHUR, THRITHALA VILLAGE, OTTAPPALAM TALUK, PALAKKAD.

R22: KADEEJA, W/O C.P. ALI, CHAKIRIPARAMBIL, WEST KAIPPURAM, P.O. KAIPPURAM, THIRUVEGAPPURA VILLAGE, OTTAPPALAM TALUK, PALAKKAD DISTRICT.

R23: KUTTY PATHUMMA, W/O ALIYAMMU, PAREKKAT HOUSE. NADUVATTOM, THIRUVEGAPPURA VILLAGE, OTTAPPALAM TALUK, PALAKKAD DISTRICT. (DIED)

ADDL. RESPONDENTS 20 TO 23 ARE IMPLEADED AS LEGAL REPRESENTATIVES OF DECEASED R5 AS PER ORDER DATED 10.2.05 IN CMP 4452/02.

ADDL.R24: ALAVI, S/O LATE PATHUMMA, CHERUPURATH VEEDU, NADUVATTOM, THIRUVEGAPPURA VILLAGE, OTTAPPALAM IS IMPLEADED AS ADDITIONAL R.24 AS LEGAL HEIR OF DECEASED R23 AS PER ORDER DATED 16.6.03 IN CMP 227/03.

<u>ADDITIONAL R25 TO 27:</u>

25: P.K. UNNIKRISHNAN MENON, S/O DEVAKI AMMA,(LATE) ASWATHI, KINAVALLUR P.O., PARALI, PALAKKAD-678 615.

26: P.K. SWAMIDASA MENON, S/O DEVAKI AMMA,(LATE) ASWATHI, KINAVALLUR P.O., PARALI, PALAKKAD-678 615.

27: P.K. LAKSHMIKUTTY AMMA, W/O LATE ACHUTHAN NAIR, KALATIHL VEEDU, POOLAMANA P.O., THUVUR, (VIA) MALAPPURAM.

ADDL. RESPONDENTS 25 TO 27 ARE IMPLEADED AS LEGAL HEIRS OF DECEASED R8 AS PER ORDER DATED 9.4.07 IN I.A.1681/05.

<u>ADDITIONAL 28 TO 35 ARE IMPLEADED:</u>

28: P.K. RADHAKRISHNAN, S/O LATE KUNHILAKHMI AMMA, SREENILAYAM, NADUVATTOM P.O., THIRUVEGAPPURA, OTTAPPALAM TALUK, PALAKKAD DISTRICT.

29: P.K. VASUDEVAN, S/O LATE KUNHILAKHMI AMMA, APPOLO MEDICALS, VAHAB COMPLEX, CAMP ROAD, SELAYUR, CHENNAI-73.

30: SOUDAMINI, W/O BALAKRISHNA MENON, CHAYILLATH VEEDU MUTHUTHALA P.O., PATTAMBI, OTTAPPALAM TALUK, PALAKKAD.

31. VIJAYALAKSHMI, W/O P. RADHAKRISHNAN, PUTHUMADATHIL HOUSE, PERINTHALMANNA, P.O., MALAPPURAM DISTRICT.

32. P.K. GOPAKUMAR, S/O LATE KUNHILAKHMI AMMA, GEETHU NIVAS, NADUVATTOM P.O., PATTAMBI, OTTAPPALAM TALUK, PALAKKAD DISTRICT.

33. P.K. INDIRADEVI, W/O BALAKRISHNAN, DEVAKI NIVAS, (E.P. HOUSE), MANNENGODE P.O., KOPPAM VILLAGE, OTTAPPALAM TALUK, PALAKKAD DISTRICT.

34. P.K. RAGUNANDAN, S/O LATE KUNHILAKHMI AMMA, A.E.E. COMPANY LTD., POST BOX NO.53027, DUBAI, U.A.E.

35. SATHYANARAYANAN, S/O LATE KUNHILAKHMI AMMA, A.E.E. COMPANY LTD., POST BOX NO.53027, DUBAI, U.A.E.

ADDL. RESPONDENTS 28 TO 35 ARE IMPLEADED AS LEGAL HEIRS OF DECEASED R12 AS PER ORDER DATED 9.4.07 IN I.A.1681/05.

BY ADV. SRI.T.R.RAVI
R6, 7, 8,12, 26 & 27 SRI.K.KARTHIKEYA PANICKER
R16, 17 & 18 BY SRI.SANTHEEP ANKARATH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 2595 OF 1991

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Dated this the 9th day of April, 2007.

O R D E R

This civil revision petition is preferred against the order of the Taluk Land Board, Ottappalam in S.M.1/90. It was a ceiling case initiated against one Sankara Menon. It was initiated on the basis that he is holding a total extent of 39.5 acres out of which he is entitled to exemption for 30 cents and his family which consists of himself, wife and 5 minor children, is entitled to hold 20 acres of land and therefore a draft statement was issued directing him to surrender 16.29 acres of land. The assessee contended that he was only having 5 cents in Sy.No.107/8A. It was further contended by him as follows:

(1) The property having an extent of 1.77 acres in Sy.No.108/4 and 108/5B was purchased after 1.1.70 . So it cannot be included in the draft statement.

(2) Only 40 cents had been purchased in 1960 in Sy.No.130/9 and so the balance extent of 1.55 acres in the said Sy.Number requires to be deleted.

(3) He has no right over 20 cents of land in Sy.No.131/4.

(4) He has no right over any property in Sy.No.139/4.

(5) 58 cents of land in Sy.No.147/9 does not belong to him and it is a property belonging to one Siva Sankaran.

(6) 53 cents in Sy.No.147/12 belong to Siva Sankaran and his brother Narayanankutty and therefore it requires to be excluded.

(7) 32 cents in Sy.No.165/4, 6 cents in Sy.No.165/6, 98 cents in Sy.No.165/6, 78 cents in Sy.No.165/8, 16 cents in Sy.No.165/9, 18 cents in Sy.No.166/3, 23 cents in Sy.No.166/4, 16 cents in Sy.No.166/5, 1.07 acres in Sy.No.167/2, 2.25 acres in Sy.No.168/3, 50 cents in Sy.No.168/4, 31 cents in Sy.No.168/5, 31 cents in Sy.No.168/6, 34 cents in Sy.No.169/1, and 5 cents in Sy.No.170/4 does not belong to him at all and it belong to one A.V. Subhadra Amma.

2. Two cents of land in Sy.No.166/1A is not in his possession and 87 cents in Sy.No.167/1 is a kudiyiruppa by one Kunhan. He also contended that he is in possession of only 1.68 acres in his possession in Sy.No.167/3. The authorised officer who inspected the property had made a factual report on these matters. After going through the report of the authorised officer the Land Board found that 21.50 acres which has been taken into

consideration for fixing the ceiling limit of the assessee has to be deleted from the total extent of 36.50 acres and when it is so the statutory family which can possess 20 acres of land is only in possession of about 15 acres of land and therefore there is no liability for the assessee to surrender any land to the Government.

3. The learned Government Pleader was not able to point out any materials or documents to show that the authorised officers report is incorrect or that the assessee is in possession of the property as stated in the draft statement. The authorised officer under the Land Reforms Act is a complete officer who can visit the property and make a factual report and then come to a right decision. In the absence of any materials to discard the evidentiary value of this report the Taluk Land Board was perfectly justified in accepting the same. The finding of the Taluk Land Board that the assessee is not liable to surrender the land does not suffer from any illegality or infirmity. Therefore, the revision lacks merit and the same is dismissed.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.
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C.R.P. NO. 2595 OF 1991
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O R D E R

9th April, 2007.